

AMENDMENTS

In the Drawings:

Replace the present, informal drawings with the attached formal drawings.

Attachment: Three (3) sheets of formal drawings.

REMARKS

In response to the drawing objection, applicant submits properly marked formal drawings herewith. Withdrawal of the drawing objection is respectfully requested.

Applicant submits herewith a terminal disclaimer to overcome the obviousness-type double patenting rejections on Serial No. 11/155,597 and U.S. Patent No. 6,981,990. This disclaimer was inadvertently omitted from applicant's previous response. Withdrawal of the double patenting rejections is respectfully requested.

Claims 1-7, 9, 11-18 and 21 stand rejected under 35 USC 112, second paragraph, as indefinite. Applicant has amended claim 1 to overcome this rejection in light of the Examiner's comments and has amended claims 7, 18 and 21 to correct typographical errors. Applicant has also amended claims 1-6 to replace the word "extended" with the word "elongate," which is more natural in this context. Withdrawal of the indefiniteness rejection is respectfully requested.

Claims 1-7, 9, 12-18 and 21 stand rejected as anticipated by Beyersdorff. This rejection is respectfully traversed.

Simply put, the receiving openings in the closure plates as disclosed in Beyersdorff are not on the lateral side faces of the closure plates as claimed, instead being in end faces. Although Beyersdorff at col. 5, lines 24-26, states that the upper part 6 and lower part 9 (corresponding to the claimed top and bottom closure plates) have insertion bores 19 on "one side face," FIGS. 2 and 5 of Beyersdorff, for example, show that insertion pins 20 are in fact extended into insertion bores 19 that are *within and parallel to* the side faces of the upper and lower parts and are not the claimed elongate openings *in* the lateral faces of the closure plates. Beyersdorff at col. 5, lines 37-54, refers to retaining pins 25 that are inserted into lateral openings 26, but these pins are not retention portions *on* the insertion instrument as claimed and are instead separate from the insertion instrument, which engages the upper and lower parts through the insertion pins 20.

Applicant also notes that there is no disclosure in Beyersdorff of the claim limitation that the elongated opening in the lateral face of one of the closure plates have “an elongate shape extending in a direction toward the other closure plate.” The only reasonable interpretation to give this language is illustrated in FIG. 5 of this application, which shows a groove 96, 96’ as an elongate opening extending from closure plate 92 in a direction toward closure plate 95. Beyersdorff shows no such orientation of the groove into which the retention pins on the insertion instrument engage.

The rejection of claims 1-7, 9, 11-18 and 21 on Beyersdorff should be withdrawn.

Claims 1-7, 9 and 11 are rejected as anticipated by Errico. This rejection is respectfully traversed.

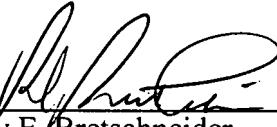
Errico suffers from the same deficiencies as Beyersdorff. The closure plates of Errico have no elongate openings extending as claimed, nor are these openings on lateral sides of the closure plates. The openings in Errico are circular; and not “elongate.” Furthermore, Errico discloses no structure that engages (or is capable of engaging) two closure plates simultaneously, as required by the rejected claims; Errico’s insertion device can engage with only one closure plate, not the combination of two top and bottom closure plates and a prosthesis core in between as claimed.

The rejection of claims 1-7, 9 and 11 on Errico should be withdrawn.

Early action allowing claims 1-7, 9 and 11-18 and 21 is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **246472005100**.

Respectfully submitted,

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Dated: August 27, 2007